IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2799 OF 2006

Indian Petro Chemicals Ltd. & Anr..Petitioners

Vs.

Air-India Limited & Anr... ..Respondents

Mr. Y.S. Jahagirdar with Mr. Sanklecha i/b. Mulla & Mulla for the Petitioner
Mrs. A.K. Abhyankar with Ms. Ranjana Parikh for respondents.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 1ST DECEMBER, 2006

P.C.

. The matter pertains to production of documents in an ongoing enquiry before the authority under the Public Premises Eviction Act for quantification of damages as claimed by respondent NO.1 against the petitioner. The present petition was filed to challenge the non-production of certain documents, which the petitioner had called for from the respondent No.1.

2. A reply has been filed on behalf of the respondent No.1 by Snil Krishna Chhaya Deputy General Manager (Property and Factory). It is their case that whatever documents are available with the respondent No.1 and which are relevant for the enquiry is given by the respondents. It is further

submitted that other documents which the petitioner has sought for are neither available nor with them.

3. The issue today is about the inspection and production of documents. The respondent No.1 cannot be called upon to produce documents if they are not in their possession. The settled law is that if there are documents in possession of a party and the party inspite of having the document does not produce the same though relie upon them, it is open to the Court to draw an adverse inference for non-production. The party, however, cannot be called upon to produce the documents which are not in their possession. The issue whether the document is relevant or irrelevant for the purpose of the enquiry is an exercise to be done by the Authority under the Public Premises Eviction Act. Any grievance that the petitioner may have in respect of the documents which are available and are not being produced by respondent NO.1 can be the subject matter of an application before the relevant authority.

. We further find no reason if it is the case of the petitioners that some documents are available with a party, not a party to this proceedings, to summon such document through a witness. It is for the authority under the Public Premises Eviction Act to thereafter pass appropriate orders. With the above observation petition disposed of.

(**ANOOP V. MOHTA J).** (**F.I. REBELLO, J)**